



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

October 27, 2010

Number: **2010-0237**  
Release Date: 12/30/2010

CC:ITA:B4:  
CONEX-140673-10

UIL: 36.00-00

The Honorable Bill Foster  
Member, U.S. House of Representatives  
27 North River Street  
Batavia, IL 60510

Attention:

Dear Congressman Foster:

I am responding to your inquiry dated September 9, 2010, submitted on behalf of your constituent, . She asked whether she can qualify for the First-Time Homebuyer Credit for the home that she purchased before October 1, 2010, even though she did not enter into a written binding contract to purchase that home before May 1, 2010.

On or about entered into a contract to purchase a home. , could not secure financing on the home and ended the contract on . On entered into a contract to purchase another home and closed on the purchase of this home on .

Homebuyers can claim an income tax credit for the purchase of a home if they meet certain requirements, including purchasing the home before specified dates (section 36 of the Internal Revenue Code (Code)). The Homebuyer Assistance and Improvement Act of 2010 (the Act), extended the purchase date deadline for the first-time homebuyer credit. Under the Act, a taxpayer who purchases a home before October 1, 2010, may qualify for a homebuyer tax credit, but only if the taxpayer enters into a written binding contract before May 1, 2010, to close on the purchase of the home before July 1, 2010 (section 36(h)(2) of the Code).

does not qualify for the First-Time Homebuyer Credit for her home because she did not enter into a binding contract to purchase that home before May 1, 2010. The statute does not contain any exceptions or grant the Internal Revenue Service the

authority to make exceptions to this rule. Any changes to this rule would require legislative action by Congress.

I hope this information is helpful. If you have any questions, please contact me or  
at .

Sincerely,

Michael J. Montemurro  
Branch Chief  
Office of Associate Chief Counsel  
(Income Tax and Accounting)